

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**RUSSELL E. GARNER,**

**PLAINTIFF,**

**VS.**

**PROGRESSIVE DIRECT INSURANCE  
COMPANY,**

**DEFENDANT.**

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**Case No. 1:06cv781-MHT**

**Plaintiff's Response to Defendant's Motion for Summary Judgment**

Comes now the Plaintiff by and through the undersigned attorney and would show unto the Court as follows:

1. From Counsel's reading of the Court's scheduling order of September 28, 2006, the Defendant's motion for summary judgment is untimely filed. The deadline was February 12, 2007.

2. The Defendant never affirmatively pled the statute of limitations in its answer. The deadline to amend the pleadings was January 3, 2007. Failure to assert constitutes waiver.

3. The party responsible for the accident, Cindy R. Greene, was listed as having Progressive Insurance on the accident report. A copy of the accident report is attached to this pleading as Exhibit "A".

4. Counsel was informed sometime before September 28, 2004, that Ms. Green's policy had lapsed due to non-payment. See letter sent to Ms. Greene as Exhibit "B".

5. Plaintiff filed suit against his uninsured motorist carrier before the two year statute of limitations ran.

6. The Defendant filed suit against Ms. Green on its behalf and on behalf of the Plaintiff to recover the amount paid for the property damage the Defendant paid on behalf of Plaintiff. A copy of that complaint is attached as Exhibit "C".

7. On June 6, 2006, this Defendant sent a letter to the Plaintiff which indicated "Our investigation of your loss on August 9, 2004 indicates that another party is

responsible for some or all of your damages.” See Progressive letter attached as Exhibit “D”.

8. In addition to the numerous factual issues addressed above there are legal issues which prevent this Court from rendering a Summary Judgment.

#### Legal Analysis

The Defendant places a great deal of emphasis on the most recent Court of Civil Appeals case, State Farm v. Mason. The Mason opinion noted:

State Farm moved for a summary judgment, alleging that because the motor-vehicle collision made the basis of the complaint occurred on March 20, 2001, and Mason's complaint was not filed until March 26, 2003, the complaint was barred by the two-year statutory limitations period set out in § 6-2-38( 1), Ala.Code 1975. State Farm's brief in support of its summary-judgment motion noted that the North Carolina Supreme Court, in *Brown v. Lumbermens Mutual Casualty Co.*, 285 N.C. 313, 204 S.E.2d 829 (1974), had held that a limitations defense available to an uninsured motorist should, as a matter of law, be available to an insurer defending against a claim for UM benefits based upon conduct of that motorist and should, in an appropriate case, bar such a claim.

Mason, --- So.2d ----, 2007 WL 80487, \*1 (Ala.Civ.App. 2007). In this case the Plaintiff filed suit the day before the statute ran. In addition, a suit was filed on the Plaintiff's behalf by this Defendant. Numerous cases indicate that the Plaintiff does not need to obtain a judgment against the uninsured motorist to establish that he is “legally entitled to recovery.” Ex Parte State Farm Mut. Auto. Ins. Co., 893 So. 2d 1111, 1115 (Ala. 2005).

The Defendant's analysis of Continental National Indemnity Company v. Fields, 926 So. 2d 1033 (Ala. 2005) is similarly incorrect. In that case the plaintiff suffered a personal injury in a collision with an uninsured motorist. For reason totally unrelated to that collision, the plaintiff died before a suit or claim was filed. Claims for personal injury which are not filed cannot be pursued by the estate whether uninsured motorist coverage is an issue or not. The Fields Court noted:

Fields [the deceased plaintiff] argues that this case is distinguishable from *Carlton* and the cases we overruled in *Carlton* because, she argues, Tamms could have sued and recovered from the uninsured motorist in tort before her death. Thus, Fields asserts, this Court should allow Tamms's estate to recover under the uninsured-motorist statute, notwithstanding the fact that the estate cannot recover directly from the uninsured motorist. In effect, Fields asks us to create a new exception to the plain language of the uninsured-motorist statute, which requires the insured to be "legally entitled to recover" from the uninsured motorist. Fields, as personal representative of Tamms's estate, is not legally entitled to recover from the uninsured motorist. The uninsured-motorist statute carves out no exception for causes of action that may have been viable at one time but that are barred by a defense at the time they are filed.

Fields, at 1038.

In this case the Plaintiff filed suit before the two year statute ran. In addition the Defendant has conducted an investigation and determined that the uninsured motorist is at fault. Most importantly, the Defendant has retained counsel and instituted an action on its behalf and on behalf of my client in state court to recover the amount paid to Plaintiff for part of his property damage. Based upon all of these factors, Plaintiff respectfully submits that the Defendant's claim is due to be denied.

s/ David W. Rousseau  
DAVID W. ROUSSEAU (ROU007)  
211 W. Adams Street  
Dothan, Alabama 36303  
(334) 699-9000  
Attorney for Plaintiff

### **CERTIFICATE OF SERVICE**

I hereby certify that I have this day mailed, postage prepaid, an exact copy of the foregoing document to:

Nix, Holtsford, Gilliland, Higgins  
& Hitson, P.C.

P.O. Box 4128  
Montgomery, AL 36103-4128

s/ David W. Rousseau  
Of counsel



IN THE CIRCUIT COURT OF DALE COUNTY, ALABAMA

PROGRESSIVE INSURANCE COMPANY )  
AS SUBROGEE OF RUSSELL GARNER )  
AND RUSSELL GARNER, INDIVIDUALLY, )

Plaintiffs, )

v. )

CINDY GREENE, )

Defendant. )

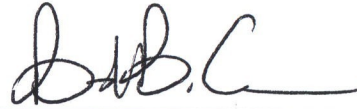
CASE NO. CV 2006- 16/M

COMPLAINT

On or about the 9th day of August, 2004 while traveling on Alabama Highway 27 within Dale County, Alabama the Defendant, negligently and/or wantonly caused or allowed the motor vehicle she was driving to collide with a motor vehicle owned and occupied by the Plaintiff's insured. As a proximate consequence of the Defendant's negligence and/or wantonness, the Plaintiff's insured's vehicle was bent, broken, and rendered less valuable wherein the Plaintiff's insured paid to their insured by and through a policy of insurance in force and effect at the time of the above described accident, Twelve Thousand Ten Dollars and 50/100 (\$12,010.50) wherein the insured had a Five Hundred Dollar and 00/100 (\$500.00) deductible.

WHEREFORE, the Plaintiffs demand judgment against the Defendant for the sum of Twelve Thousand Five Hundred Ten Dollars and 50/100 (\$12,510.50), plus interest and court costs.

Respectfully submitted.



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BERNARD B CARR (CAR063)  
ATTORNEY FOR THE PLAINTIFFS

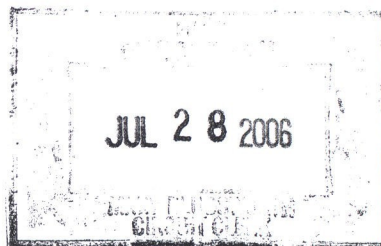
OF COUNSEL:

**CHAMBLESS ❖ MATH, P.C.**

Post Office Box 230759

Montgomery, AL 36123-0759

(334) 272-2230



THE  
GAMBLE LAW FIRM, P.C.  
206 East Main Street  
Post Office Box 2104  
Dothan, Alabama 36302

Michael J. Gamble  
David W. Rousseau

Telephone 334-793-2889  
Telecopier 334-792-9611

September 28, 2004

Cindy R. Greene  
347 County Road 401  
Ozark, Alabama 36360

Dear Ms. Greene:

I have been informed by the insurance company listed on the accident report, Progressive, which indicates that your policy was cancelled shortly before the accident in July. I would be very much interested in talking to you about the circumstances surrounding that cancellation. Sometimes if your vehicle has a lien on it, the lien holder is required to be given information about the cancellation. In any event, it is in my clients best interest if there is some sort of insurance out there. Please contact me so we can discuss this matter in greater detail.

Sincerely,

*David W. Rousseau*  
David W. Rousseau

DWR/cjf

Subrogation Unit  
P.O. Box 43258  
Richmond Heights, OH 44143

RUSSELL E GARNER  
888 WILLOGAN RD  
OZARK, AL 36360

Underwritten by:  
Progressive Direct Insurance Co.  
Claim number: 04-3537977  
Date of loss: August 9, 2004  
Today's date: June 6, 2006

1-800-734-0029  
Monday through Friday 7:00 a.m. to 9:00 p.m. EST  
Saturday 9:00 a.m. to 5:00 p.m. EST

## Deductible reimbursement

Our investigation of your loss on August 9, 2004 indicates that another party is responsible for some or all of your damages. We will be seeking reimbursement from the other party for the portion of our payments for which they are responsible. Unless you request otherwise, we will include a separate demand for reimbursement of your deductible.

Our investigation shows that the other party is uninsured. It usually takes longer to recover from an uninsured party. Our ability to recover, and the speed with which we are able to do so, will depend on the ability and willingness of the other party to pay our claim. If the other party is unwilling to pay our claim, we may, at our sole discretion, pursue our claim through the available legal channels. This may significantly increase the time it takes to resolve this matter. We will inform you if we have to take this further action.

It is possible that you will not receive full or even partial reimbursement of your deductible if the other party refuses to cooperate with our collection attempts or if we find it necessary to incur expenses or legal fees to collect your deductible.

You have the right to opt out of our recovery efforts and pursue reimbursement of your deductible payment on your own. If you do not want us to pursue recovery of your deductible, please call by June 20, 2006 to inform us of your decision.

If we have not collected your deductible by September 4, 2006 we will provide a further status report to you. Please let us know if you change your address or telephone number so that we can contact you.

If you have any questions regarding the collection process or the status of our collection efforts, please contact us at the number above or go to [progressive.com](http://progressive.com).



## ALABAMA UNIFORM TRAFFIC ACCIDENT REPORT

DPS **\$20,000**

Shaded Areas To Be Used By Data Processing Only

Sheet 1 of 3 Sheet(s) Microfilm No. Local Case No.

Date 08 09 2004 Time 8:55 AM Day of Week M T W T H County 26 City Rural X Highway Classification: I-Interstate S-State F-Federal C-County M-Municipal P-Private Prop. O-Other Local Zone

On Street, Road or Highway AL. 27 At Intersection of or Between (Node 1) Co. Rd. 123 And (Node 2) Coffee County Line

S027 Street or Road Code 7210 Node Code 7207 010111010 Feet From Node (Circle One) 1

Intersection Related 1-Node 1 2-Node 2 3-Node 3 4-Node 4 5-Node 5 6-Node 6 7-Node 7 8-Node 8 9-Node 9 10-Node 10 11-Node 11 12-Node 12 13-Node 13 14-Node 14 15-Node 15 16-Node 16 17-Node 17 18-Node 18 19-Node 19 20-Node 20

First Harmful Event 20 Event Location 1 Distance to Fixed Object NA FT.

Driver Full Name Cindy R. Greene Street Address 347 Co. Rd. 401 City and State Ozark, AL. ZIP 36360 Telephone No. 334-774-7422

DOB 01 07 1982 Race W Sex F DL State AL Driver License No. 6758443 DL Class D DL Status C List Restriction Not Complied With N CDL Status N List Endorsements Not Complied With N Residence Less Than 25 Miles Yes No

Place of Employment Apple Bee's Ozark, AL. Liability Insurance Co. Progressive Social Security No. 593-58-4877

Driver Condition: 1-No Defect 2-Apparently Asleep 3-Fatigued 4-III 5-Other 6-Unknown 7-Other 8-Unknown 9-Unknown 10-Unknown 11-Unknown 12-Unknown 13-Unknown 14-Unknown 15-Unknown 16-Unknown 17-Unknown 18-Unknown 19-Unknown 20-Unknown

Maneuver 11 Travel Road Name AL. 27 Road Code S027 Travel Direction N E S W A-Not on Rd U-Unk Other Contr Circumstance 99 Prime Harm Event 20 Event Loc 1

Veh Year 1995 Make Ford Model Mus Body 2D V.I.N. 1FALP4042SF203240 License Tag Number 26C469L State AL Year 2005

Owner's Name Same Street or R.F.D. City State ZIP

Type 1-Auto 11-Moped 12-M. Scooter 13-Pick Up 14-Farm Mach. 15-Truck Tractor 16-Road Equip. 17-Ridden Animal 18-M. Home (R.V.) 19-ATV 20-Motorcycle

Usage 1-Personal 10-Police 11-Other Business 12-Bus/Pass. Transport. 13-Fire Fighting 14-Taxi 15-Military 16-Agriculture 17-Wrecker/Tow 18-Transport Prop. 19-Other 20-Other

Hazardous Cargo 1-None 2-Explosive 3-Gas 4-Flam/Combust Liq. 5-Flammable Solids 6-Oxidizer/Peroxide 7-Poison 8-Radioactive Mat. 9-Corrosive Material 10-Other

Attachment 1-None 2-Mobile Home 3-Semi Trailer 4-Utility Trailer 5-4-Wheel Trailer 6-Boat Trailer 7-Camper Trailer 8-Towed Vehicle 9-Tanker 10-Pole Trailer 11-Double Trailer 12-Other

Contributing Defect 1-None 2-Brakes 3-Steering 4-Power Plant 5-Suspension 6-Tires 7-Exhaust 8-Lights 9-Turn Signal 10-Windows/W. Shield 11-Restraint Sys. 12-Wheels 13-Truck Coupling 14-Cargo 15-Fuel System 16-Other 17-Unknown

Circle areas Damaged On Diagram 1-Under Carriage 2-1 3-2 4-3 5-4 6-5 7-6 8-7 9-8 10-9 11-10 12-11 13-12 14-13 15-14 16-15 17-16 18-17 19-18 20-19

Speed Limit 55 MPH Est. Speed 55 MPH Citation Offense Charged None Damage 1-None Visible 2-Not Disabled 3-Disabled Vehicle Towed Away? Yes No Occupants in Unit 1 Total Injuries 1

Veh Towed By Whom: South Union Wrecker To Where: South Union Shop

Driver/Pedestrian Full Name Russell E. Garner Street Address 888 Will Logan Rd. City and State Ozark, AL. ZIP 36360 Telephone No. 334-237-3071

DOB 09 27 1968 Race W Sex M DL State FL Driver License No. G656-725-68-347-0 DL Class E DL Status C List Restriction Not Complied With N CDL Status N List Endorsements Not Complied With N Residence Less Than 25 Miles Yes No

Place of Employment Self Employed Liability Insurance Co. Progressive Social Security No. 592-12-9133

Driver/Ped Condition: 1-No Defect 2-Apparently Asleep 3-Fatigued 4-III 5-Other 6-Unknown 7-Other 8-Unknown 9-Unknown 10-Unknown 11-Unknown 12-Unknown 13-Unknown 14-Unknown 15-Unknown 16-Unknown 17-Unknown 18-Unknown 19-Unknown 20-Unknown

Maneuver/Action 01 Travel Road Name AL. 27 Road Code S027 Travel Direction N E S W A-Not on Rd U-Unk Other Contr Circumstance 99 Prime Harm Event 20 Event Loc 1

Veh Year 2000 Make Dodge Model Ram Body NA V.I.N. 3B7HCL13YXYM200264 License Tag Number 38F485P State AL Year 2005

Owner's Name Same Street or R.F.D. City State ZIP

Type 1-Auto 11-Moped 12-M. Scooter 13-Pick Up 14-Farm Mach. 15-Truck Tractor 16-Road Equip. 17-Ridden Animal 18-M. Home (R.V.) 19-ATV 20-Motorcycle

Usage 1-Personal 10-Police 11-Other Business 12-Bus/Pass. Transport. 13-Fire Fighting 14-Taxi 15-Military 16-Agriculture 17-Wrecker/Tow 18-Transport Prop. 19-Other 20-Other

Hazardous Cargo 1-None 2-Explosive 3-Gas 4-Flam/Combust Liq. 5-Flammable Solids 6-Oxidizer/Peroxide 7-Poison 8-Radioactive Mat. 9-Corrosive Material 10-Other

Attachment 1-None 2-Mobile Home 3-Semi Trailer 4-Utility Trailer 5-4-Wheel Trailer 6-Boat Trailer 7-Camper Trailer 8-Towed Vehicle 9-Tanker 10-Pole Trailer 11-Double Trailer 12-Other

Contributing Defect 1-None 2-Brakes 3-Steering 4-Power Plant 5-Suspension 6-Tires 7-Exhaust 8-Lights 9-Turn Signal 10-Windows/W. Shield 11-Restraint Sys. 12-Wheels 13-Truck Coupling 14-Cargo 15-Fuel System 16-Other 17-Unknown

Circle areas Damaged On Diagram 1-Under Carriage 2-1 3-2 4-3 5-4 6-5 7-6 8-7 9-8 10-9 11-10 12-11 13-12 14-13 15-14 16-15 17-16 18-17 19-18 20-19

Speed Limit 55 MPH Est. Speed 65 MPH Citation Offense Charged None Damage 1-None Visible 2-Not Disabled 3-Disabled Vehicle Towed Away? Yes No Occupants in Unit 1 Total Injuries 1

Veh Towed By Whom: Road Doctor Wrecker To Where: Road Doctor Shop

Contributing Circumstances 01-Improper Passing 02-Improper Lane Change/Usage 03-Improper Turn/U-Turn 04-Following Too Close 05-Misjudging Stopping Dist 06-Over Speed Limit 07-Avoid Object/Person/Veh 08-Unexpected Object/Person/Veh 09-Improper Backing 10-Inop Traffic Control 11-Improper/No Signal 12-Fail to Heed Sign/Signal 13-Improper Driving Environ 14-Road Defect 15-Vision Obstruction 16-Defective Equipment 17-DUI 18-Under Min Speed 19-Improper Load/Size 20-Improper Attachment 21-Fail to Yield Right-of-Way 22-Driver Condition 23-Wrong Side of Road 24-Veh Pushed/Towed by Veh 25-Veh Pushed by Person 26-Veh Left Road 27-Driver Not in Control 28-Load Shift 29-Parts/Cargo from Veh 30-Ped Violation 31-Veh Wgt/Hgt/Length 32-Ped Under Influence 33-Illegal/Improper Parking 34-Other 35-Unknown

Driver Maneuver 01-Go Straight Ahead 02-Pass on Left 03-Pass on Right 04-Pass on Left Turn Lane 05-Go Straight-Left Turn Lane 06-Go Straight-Right Turn Lane 07-Change Lanes-Left 08-Change Lanes-Right 09-Merge-Left 10-Merge-Right 11-Wrong Side of Road 12-Wrong Way-1-Way 13-Right Turn 14-Left Turn 15-U-Turn 16-Start from Park 17-Start in Traffic 18-Slowing/Stopping 19-Stopped in Traffic 20-Avoid Object in Road 21-Exiting Private Road/Property 22-PedCyc Ride with Traffic in Road 23-PedCyc Ride with Traffic off Road 24-PedCyc Ride Against Traffic in Rd 25-PedCyc Ride Against Traffic off Rd 26-PedCyc Ride Against Traffic in Rd 27-PedCyc Ride Against Traffic off Rd 28-PedCyc Ride Against Traffic in Rd 29-PedCyc Ride Against Traffic off Rd 30-PedCyc Ride Against Traffic in Rd 31-PedCyc Ride Against Traffic off Rd 32-PedCyc Ride Against Traffic in Rd 33-PedCyc Ride Against Traffic off Rd 34-PedCyc Ride Against Traffic in Rd 35-PedCyc Ride Against Traffic off Rd 36-PedCyc Ride Against Traffic in Rd 37-PedCyc Ride Against Traffic off Rd 38-PedCyc Ride Against Traffic in Rd 39-PedCyc Ride Against Traffic off Rd 40-PedCyc Ride Against Traffic in Rd 41-PedCyc Ride Against Traffic off Rd 42-PedCyc Ride Against Traffic in Rd 43-PedCyc Ride Against Traffic off Rd 44-PedCyc Ride Against Traffic in Rd 45-PedCyc Ride Against Traffic off Rd 46-PedCyc Ride Against Traffic in Rd 47-PedCyc Ride Against Traffic off Rd 48-PedCyc Ride Against Traffic in Rd 49-PedCyc Ride Against Traffic off Rd 50-PedCyc Ride Against Traffic in Rd 51-PedCyc Ride Against Traffic off Rd 52-PedCyc Ride Against Traffic in Rd 53-PedCyc Ride Against Traffic off Rd 54-PedCyc Ride Against Traffic in Rd 55-PedCyc Ride Against Traffic off Rd 56-PedCyc Ride Against Traffic in Rd 57-PedCyc Ride Against Traffic off Rd 58-PedCyc Ride Against Traffic in Rd 59-PedCyc Ride Against Traffic off Rd 60-PedCyc Ride Against Traffic in Rd 61-PedCyc Ride Against Traffic off Rd 62-PedCyc Ride Against Traffic in Rd 63-PedCyc Ride Against Traffic off Rd 64-PedCyc Ride Against Traffic in Rd 65-PedCyc Ride Against Traffic off Rd 66-PedCyc Ride Against Traffic in Rd 67-PedCyc Ride Against Traffic off Rd 68-PedCyc Ride Against Traffic in Rd 69-PedCyc Ride Against Traffic off Rd 70-PedCyc Ride Against Traffic in Rd 71-PedCyc Ride Against Traffic off Rd 72-PedCyc Ride Against Traffic in Rd 73-PedCyc Ride Against Traffic off Rd 74-PedCyc Ride Against Traffic in Rd 75-PedCyc Ride Against Traffic off Rd 76-PedCyc Ride Against Traffic in Rd 77-PedCyc Ride Against Traffic off Rd 78-PedCyc Ride Against Traffic in Rd 79-PedCyc Ride Against Traffic off Rd 80-PedCyc Ride Against Traffic in Rd 81-PedCyc Ride Against Traffic off Rd 82-PedCyc Ride Against Traffic in Rd 83-PedCyc Ride Against Traffic off Rd 84-PedCyc Ride Against Traffic in Rd 85-PedCyc Ride Against Traffic off Rd 86-PedCyc Ride Against Traffic in Rd 87-PedCyc Ride Against Traffic off Rd 88-PedCyc Ride Against Traffic in Rd 89-PedCyc Ride Against Traffic off Rd 90-PedCyc Ride Against Traffic in Rd 91-PedCyc Ride Against Traffic off Rd 92-PedCyc Ride Against Traffic in Rd 93-PedCyc Ride Against Traffic off Rd 94-PedCyc Ride Against Traffic in Rd 95-PedCyc Ride Against Traffic off Rd 96-PedCyc Ride Against Traffic in Rd 97-PedCyc Ride Against Traffic off Rd 98-PedCyc Ride Against Traffic in Rd 99-PedCyc Ride Against Traffic off Rd

Pedestrian Action 01-Cross/Enter-Intersection 02-Cross/Enter-Other 03-Walk in Road-Against Traffic 04-Walk in Road-With Traffic 05-Stand in Roadway 06-Get on/off Vehicle 07-Push/Work on Vehicle 08-In Road-Other Work 09-In Road-Playing 10-In Road-Other 11-Not in Road 12-Other 13-Unknown

Event Loc 1-On Roadway 2-Off Roadway 3-Median 4-Driveway 5-Private Road/Property 6-In Intersection



<b>SEATING</b>	<div style="border: 1px solid black; padding: 2px;"> <div style="display: flex; justify-content: space-between;"> <span>1</span> <span>Unit 1</span> </div> <table border="1" style="width: 100%; text-align: center;"> <tr><td>1</td><td>2</td><td>3</td></tr> <tr><td>4</td><td>5</td><td>6</td></tr> <tr><td>7</td><td>8</td><td>9</td></tr> </table> </div>		1	2	3	4	5	6	7	8	9	<div style="border: 1px solid black; padding: 2px;"> <div style="display: flex; justify-content: space-between;"> <span>10</span> <span>11</span> </div> </div>		<div style="border: 1px solid black; padding: 2px;"> <div style="display: flex; justify-content: space-between;"> <span>Other Involved Unit (Circle One)</span> <span>12 - Pedestrian</span> </div> <span>13 - Rider of Domestic Animal</span>  <span>14 - Occ. of Non-Motorized Vehicle</span>  <span>15 - Victim of Other Circumstance/ Codes Not Applicable</span>  <div style="border: 1px solid black; width: 100px; height: 15px; margin-top: 5px;"></div> </div>		<div style="border: 1px solid black; padding: 2px;"> <div style="display: flex; justify-content: space-between;"> <span>2</span> <span>Unit 2</span> </div> <table border="1" style="width: 100%; text-align: center;"> <tr><td>1</td><td>2</td><td>3</td></tr> <tr><td>4</td><td>5</td><td>6</td></tr> <tr><td>7</td><td>8</td><td>9</td></tr> </table> </div>		1	2	3	4	5	6	7	8	9	<div style="border: 1px solid black; padding: 2px;"> <div style="display: flex; justify-content: space-between;"> <span>Other Involved Unit (Circle One)</span> <span>12 - Pedestrian</span> </div> <span>13 - Rider of Domestic Animal</span>  <span>14 - Occ. of Non-Motorized Vehicle</span>  <span>15 - Victim of Other Circumstance/ Codes Not Applicable</span>  <div style="border: 1px solid black; width: 100px; height: 15px; margin-top: 5px;"></div> </div>		<b>CODES</b>
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<b>VICTIMS</b>	<div style="border: 1px solid black; padding: 2px;"> <div style="display: flex; justify-content: space-between;"> <span>Name</span> <span>Cindy R. Greene</span> <span>Address</span> <span>347 Co. Rd. 401 Ozark, AL.</span> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <span>Unit No</span> <span>1</span> <span>Seat Pos</span> <span>1</span> <span>Injury Type</span> <span>A</span> <span>Age</span> <span>22</span> <span>Sex</span> <span>F</span> <span>Ejection</span> <span>N</span> <span>First Aid By</span> <span>D</span> </div> </div>										<b>SAFETY EQUIPMENT</b>																		
	<div style="border: 1px solid black; padding: 2px;"> <div style="display: flex; justify-content: space-between;"> <span>Name</span> <span>Russell E. Garner</span> <span>Address</span> <span>888 Will Logan Rd. Ozark, AL.</span> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <span>Unit No</span> <span>2</span> <span>Seat Pos</span> <span>1</span> <span>Injury Type</span> <span>A</span> <span>Age</span> <span>35</span> <span>Sex</span> <span>M</span> <span>Ejection</span> <span>N</span> <span>First Aid By</span> <span>D</span> </div> </div>																												
<b>CODES</b>	<div style="border: 1px solid black; padding: 2px;"> <div style="display: flex; justify-content: space-between;"> <span>Injury Type</span> <span>K - Killed</span> <span>A - Visible or Carried from Scene</span> <span>N - Not Fully</span> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <span>B - Bruise/Abrasion/Swelling</span> <span>C - Not Visible—Has Pain/Faint</span> <span>P - Partially</span> <span>A - Not Applicable</span> </div> </div>										<b>SAFETY EQUIPMENT</b>																		
<div style="border: 1px solid black; padding: 2px;"> <div style="display: flex; justify-content: space-between;"> <span>First Aid By</span> <span>M - Paramedic</span> <span>P - Police</span> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <span>D - Other</span> <span>U - Unknown</span> <span>N - None</span> </div> </div>																													
<p>See Sheet 3 Of 3 Sheets!</p>																													
<p>Officer's Opinion of What Happened: See Sheet 3 Of 3 Sheets!</p>																													
<b>ROADWAY ENVIRONMENT</b>	<div style="border: 1px solid black; padding: 2px;"> <div style="display: flex; justify-content: space-between;"> <span>Unit 1</span> <span>Contributing Road Defects</span> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <span>1</span> <span>4 - None</span> </div> </div>																												
	<div style="border: 1px solid black; padding: 2px;"> <div style="display: flex; justify-content: space-between;"> <span>Unit 2</span> <span>Contributing Road Defects</span> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <span>2</span> <span>4 - None</span> </div> </div>																												
<b>INVESTIGATION</b>	<div style="border: 1px solid black; padding: 2px;"> <div style="display: flex; justify-content: space-between;"> <span>Light</span> <span>1 - Daylight</span> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <span>4 - Darkness—Road Not Lit</span> </div> </div>																												
	<div style="border: 1px solid black; padding: 2px;"> <div style="display: flex; justify-content: space-between;"> <span>Weather</span> <span>1 - Clear</span> </div> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <span>2 - Cloudy</span> </div> </div>																												
<p>The data on this report reflects my best knowledge, opinion and belief concerning the accident, but no warrant is made as to the factual accuracy thereof.</p> <p>Signature of Investigating Officer: <i>James W. Davis</i> 228</p> <p style="text-align: right;">Date: 08-09-2004</p>																													



## ALABAMA UNIFORM TRAFFIC ACCIDENT REPORT

DPS

150

Shaded Areas To Be Used By Data Processing Only

Sheet 2

Sheet(s) 3

Microfilm No.

Local Case No. \_\_\_\_\_

Form 100-100 (Rev. 1-80) - Accident Report. Includes sections for Location and Time, Driver, Vehicle, and Pedestrian. Contains checkboxes for various conditions and a diagram for vehicle damage.



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ALABAMA

## UNIFORM TRAFFIC ACCIDENT REPORT

LOCAL CASE NO.

4521556

SHEET 3 OF 3 SHEET(S)

AST No. 34 Rev. 4/86

## SUPPLEMENTAL SHEET

	Name	Address	Unit	Seat	Injury	Age	Sex	Ejec-	First
			No.	Pos.	Type			tion	Aid By
ADDITIONAL VICTIMS	3	NA							
	Taken to		Taken by						
	4	NA							
	Taken to		Taken by						
	5	NA							
	Taken to		Taken by						
	6	NA							
	Taken to		Taken by						
	7	NA							
	Taken to		Taken by						
	8	NA							
	Taken to		Taken by						
ADDITIONAL VICTIMS	9	NA							
	Taken to		Taken by						
	10	NA							
	Taken to		Taken by						
	11	NA							
	Taken to		Taken by						
	12	NA							
	Taken to		Taken by						

## DESCRIBE WHAT HAPPENED (Refer to vehicles by number)

Veh.#1 was traveling South on AL. 27. Veh.#2 was traveling North on AL. 27. Veh.#3 was also traveling North on AL. 27 behind Veh.#2. Veh.#2 had just passed Veh.#3 in a no passing zone and got back into the Northbound lane when it met Veh.#1 Southbound in the Northbound lane. Driver of Veh.#2 swerved to the right and then swerved hard to the left attempting to avoid Veh.#1. The right front of Veh.#2 made impact with the right front of Veh.#1 in the Northbound lane. Veh.#1 partially left the roadway and came to a stop on the Northbound side. Veh.#2 partially left the roadway on the Southbound side and came to a stop. Veh.#3 approaching this scene immediately behind Veh.#2 was unable to stop. The front of Veh.#3 made light impact with the right rear of Veh.#1 in the Northbound lane. Veh.#3 came to a stop in the Northbound lane. Driver of Veh.#3 is listed as a witness on this report and stated that Veh.#1 was clearly on the wrong side of the road prior to impact. He also stated that V#2 had just passed him and that it was his opinion that Veh.#2 was traveling well over the speed limit. Driver of Veh.#1 stated that all she remembered was that she dropped her cellular telephone and was trying to pick it up.

